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October 30, 2009

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

Re: *In the Matter of a National Broadband Plan for Our Future*, GN Docket No. 09-51.

Dear Ms. Dortch:

On October 29, 2009 Jim Frame, Pat Chirico, Colin Sandy and the undersigned from NECA met with Carol Matthey, Thor Kendall, Mukul Chawla and Rohit Dixit of the Office of Strategic Planning and Policy; Marcus Maher, Irene Flannery, Deena Shetler, and Rebekah Goodheart of the Wireline Competition Bureau to discuss the Federal Communications Commission's National Broadband Plan. In particular, NECA proposed a framework that would allow a consumer driven, market oriented transition from the voice-centric regulatory mechanisms to ones specifically designed to support broadband deployment and adoption in rural America. NECA also responded to FCC staff questions regarding the operating and capital expenses associated with deploying broadband in rural America.

The attached presentation outlines 6 basic concepts. First, the National Broadband plan should define the term "Rural Broadband Network." Second, it should establish key policy elements for a High Cost Broadband Universal Service Fund. Third, the Plan should include a smooth, market-driven transition from existing support mechanisms to a new high-cost broadband fund. Fourth, the plan should allow Rural Broadband Network Providers flexibility to meet customer needs. Fifth, it should help small providers make services available in rural areas. Finally, the Plan should address reforms of the intercarrier compensation system.

This letter of notice of our *ex parte* presentation has been filed via the Commission's Electronic Comment Filing System in accordance with FCC rules. Questions regarding this meeting may be directed to my attention.

Sincerely,

A handwritten signature in black ink that reads "Joe A. Douglas". The signature is fluid and cursive, with the first and last names being more prominent.

Attachment

Cc: Carol Matthey  
Irene Flannery  
Thor Kendall  
Mukul Chawla  
Rohit Dixit  
Marcus Maher  
Rebekah Goodheart  
Deena Shetler



## ***Getting From Here to There: Transitioning Today's Rural Access & USF Mechanisms to Broadband***

The ARRA directs the Commission to include in its National Broadband Plan a “detailed strategy for achieving affordability of [broadband] service and maximum utilization of broadband infrastructure and service by the public.”<sup>1</sup>

As part of this detailed strategy, the Plan should include a framework for transitioning existing regulatory mechanisms to an all-IP broadband world. Current regulatory mechanisms, designed to support legacy voice and data services, are clearly in need of change. Yet these mechanisms remain vital to maintaining existing levels of traditional and advanced service for consumers in rural areas.

The concepts presented below accordingly seek to lay the groundwork for a successful transition from today's voice-centric regulatory mechanisms to ones specifically designed to support broadband deployment and adoption in rural America.

### **Basic Concepts**

#### **1. Define the “Rural Broadband Network.”**

Existing regulatory definitions are built around traditional local and long distance telephony services. For regulatory purposes, the National Broadband Plan should seek to define a “Rural Broadband Network” encompassing broadband network transmission capability from the end-user to the Internet backbone, including all major network transmission components required to provide high-speed broadband Internet access (*i.e.*, last mile, second mile, middle mile, and related Internet connectivity).

#### **2. Establish Key Policy Elements for a High Cost Broadband Universal Service Fund**

Virtually all commenters on the National Broadband Plan agree existing universal service mechanisms must be adapted to support broadband. The question is how? NECA suggests the Commission include the following key universal service policy elements in its Plan:

- Support should be provided to only one fixed and one mobile “last resort” network in high cost areas.

<sup>1</sup> See American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (ARRA) at § 6001(k)(2)(B).

- Support should be conditioned upon carriers' agreement to offer broadband network transmission services as regulated common carriage Title II services (*i.e.*, network transmission services supported by USF should be available for other carriers to use).
- Support mechanisms should be based on the specific costs of providing fixed and mobile broadband networks in rural areas. USF funding would be determined by comparing regulated common carrier rural broadband network transmission costs to urban broadband network transmission cost benchmarks established by the Commission. The benchmark system should include incentives for carriers to deploy innovative broadband facilities in an efficient manner, and should take into account revenues generated by the provision of broadband services.
- The contribution mechanism should be revised to include all telephone numbers and all broadband connections, regardless of service provider status or technology used to deliver service.

### **3. Plan a Smooth, Market-Driven Transition From Existing Support Mechanisms to a New High-Cost Broadband Fund**

The Commission should adopt a transition strategy for USF that allows customers to lead. Under NECA's approach, today's common line loop distribution plant cost-recovery methods would be transitioned to a "broadband end user connection" approach as customers adopt broadband services.

This should be accomplished by including last mile loop distribution costs, when a customer chooses broadband-only connections (*e.g.*, naked DSL), in the rural broadband network transmission cost calculation described above. When a customer chooses voice services with ADSL, there would be no loop cost included in the rural broadband network transmission cost calculation for USF. Local exchange rates, SLCs, HCL and ICLS funding would continue.

This approach helps assure stability in the delivery and pricing of rural customer services while incenting service providers to offer new broadband-based services with lower risk of severe financial impacts in these sparse markets. Existing support funding can be transitioned to lower levels as new broadband funding requirements increase.

### **4. Allow Rural Broadband Network Providers Flexibility to Meet Customer Needs**

The broadband marketplace is changing rapidly in rural areas as well as urban. Not all customers want standard service packages – particularly public health and safety customers, educational institutions, electric utilities, and business customers.

To meet varied customer needs, rural providers should be able to offer broadband network transmission services under flexible tariff, contract tariff and non-tariff arrangements. Rural providers must also be able to offer various optional features and functions demanded by customers (e.g., QoS offerings, VPNs, etc.) or to enter into business arrangements with content providers enabling expanded service options and/or reduced prices to end users.

As discussed above, all such rural broadband network services would be provided on a non-discriminatory common carrier basis by rural broadband network providers.

## **5. Help Small Providers Make Services Available in Rural Areas**

Small rural carriers face high hurdles when attempting to provide Internet access and video services “comparable” to those offered in urban areas. Small carriers have difficulty negotiating interconnection agreements with larger, national providers and also find it difficult to get access to Internet and video content (national providers typically aren’t interested in “thin” rural markets).

The Plan should address these problems by recommending adoption of rules that enable rural broadband network providers to gain interconnection to networks owned by large, non-Title II network providers, and to Internet and other content, on terms and conditions equal to those they provide to themselves or their affiliates. These provisions will help achieve both availability and greater broadband ‘take rates’ in rural areas.

## **6. Repair the Broken Intercarrier Compensation System**

Allowing existing intercarrier compensation mechanisms to continue to deteriorate will halt progress in broadband deployment levels and may even jeopardize existing accomplishments. The Plan should accordingly recommend transitioning current switched access rates to lower levels in several steps (i.e., state rates move to capped interstate levels, then all rates move to a lower rate per minute of use unified on a per company or pool rate band basis.)

The Commission should not, however, eliminate per-minute rates or set them at below-cost levels, as this approach sends wrong economic signals that could create even more severe regulatory arbitrage problems. The Commission must also ensure a level playing field by confirming all entities using switched network services to terminate calls must pay for network usage on an equal basis, without regard to the technology used to originate a call.